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**Before the**
**FEDERAL COMMUNICATIONS COMMISSION**
**Washington, DC 20554**



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| In the Matter of | ) | |
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| Establishment of an Improved Model | ) | ET Docket No. 00-~~17~~ 00-11 |
| for Predicting the Broadcast Television | ) | |
| Field Strength Received at | ) | |
| Individual Locations | ) | |
| | ) | |

# COMMENTS OF THE SATELLITE BROADCASTING AND COMMUNICATIONS ASSOCIATION

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**February 22, 2000**

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To the Commission:

## COMMENTS OF THE SATELLITE BROADCASTING AND COMMUNICATIONS ASSOCIATION

The Satellite Broadcasting and Communications Association ("SBCA") hereby offers its comments on the Notice of Proposed Rulemaking ("NPRM") released by the Commission in this proceeding.[1] The Commission has initiated this rulemaking in order to fulfill its obligation, imposed by the Satellite Home Viewer Improvement Act,[2] to establish a point-to-point predictive model "for reliably and presumptively determining the ability of individual locations to receive signals in accordance with the signal intensity standard in effect under section 119(d)(10)(A) of

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[1] *In the Matter of Establishment of an Improved Model for Predicting the Broadcast Television Field Strength Received at Individual Locations*, ET Docket No. 00-11, Notice of Proposed Rulemaking, FCC 00-17 (rel. January 20, 2000).

[2] *See Satellite Home Viewer Improvement Act of 1999* ("SHVIA"), *Title 1 of the Intellectual Property and Communications Omnibus Reform Act of 1999*, P.L. 106-113, 113 Stat. 1501, Appendix I (1999) (relating to copyright licensing and carriage of broadcast signals by satellite carriers). The Commission commenced this proceeding in response to the requirements set forth in SHVIA. The signal intensity for determining eligibility is the Grade B standard set forth in 47 C.F.R. §73.683(a).

Title 17, United States Code. *See* Section 1008(a) of SHVIA, to be codified in pertinent part as 47 U.S.C. § 339(c)(3).

The SBCA is a national trade association that represents the entire Direct-To-Home satellite industry. The Association's membership includes the principal satellite manufacturers and operators, the operating DBS companies that offer private subscription service to the public, the major program services that are available to DTH consumers as part of subscription packages in both C-Band and DBS services, the manufacturers and distributors of DTH receiving equipment, and the more than 2,500 satellite retail dealers who are the point of sale to consumers.

Congress has instructed the Commission to rely on the Individual Location Longley-Rice ("ILLR") model that the Commission developed in Docket No. 98-201,[3] and also to ensure that the model take into account terrain, building structures, and other land cover variations.[4] The NPRM puts forward proposals intended to take into account some of these variations. In that respect, the SBCA does not object to the clutter loss values proposed by the Commission for the Land Use Land Cover ("LULC") variables found in the United States Geological Survey ("USGS") database.

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[3] *See Satellite Delivery of Network Signals to Unserved Households for Purposes of the Satellite Home Viewer Act Part 73 Definition and Measurement of Signals of Grade B Intensity*, Report and Order ("SHVA Report and Order"), CS Docket No. 98-201, 14 FCC Rcd. 2654 (1999), *recon. granted in part and denied in part*, Order on Reconsideration, FCC 99-278, released Oct. 7, 1999, 1999 FCC LEXIS 4984.

[4] *See* SHVIA, Title I, Section 1008, Rules for Satellite Carriers Retransmitting Television Broadcast Signals, as codified in Section 339(c)(3) of the Communications Act. *Also see* Section 1005, which requires: "In determining presumptively whether a person resides in an unserved household . . . a court shall rely on the Individual Location Longley-Rice model as set forth by the Federal Communications Commission in Docket No. 98-201, as that model may be amended by the Commission over time under section 339(c)(3) of the Communications Act of 1934 to increase the accuracy of that model."

On the other hand, SBCA agrees with its members DIRECTV, Inc. ("DIRECTV") and EchoStar Satellite Corporation ("EchoStar") that these proposals do not yet incorporate several other highly relevant variables, such as building height and spacing, and the losses associated with these variables. Nor do the proposed improvements to the model take into account the significant factor of ghosting, which has been recognized as a serious problem by the Commission.

The SBCA notes that intensive work is underway to conduct the field measurements necessary to allow the integration of these additional variables in the ILLR predictive model. The Commission should certainly hold this rulemaking open (consistent also with its statutory obligation to do so) to accommodate the results of this work.

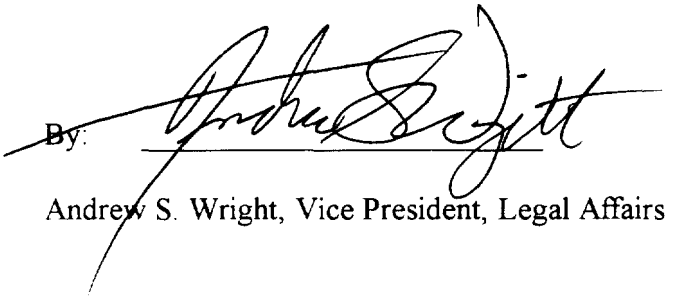
Particularly with respect to ghosting, SBCA notes that EchoStar has developed a methodology for achieving the incorporation of this significant impairment factor into the Commission's predictive model. This methodology relies on, ***first***, establishing a rule of equivalence between ghosting and signal strength loss and, ***second,*** correlating ghosting impairment with a set of land use/land cover variables. Integration of ghosting into the model would be a significant stride towards remedying the problem confronted by many U.S. households, which would otherwise be judged presumptively ineligible to receive distant network signals by satellite even as the quality of their over-the-air reception is plainly unacceptable due to ghosting.

The Commission also asks how it should identify independent and neutral entities to conduct tests at a consumer's request if a broadcaster refuses to grant the waiver contemplated by the SHVIA. NPRM at ¶ 15. The SBCA agrees with EchoStar that the same qualification criteria should apply to testing conducted to determine whether a household is eligible for a distant signal retransmission in the first place – and not only to the testing prescribed by the SHVIA at the

subscriber's request after a waiver denial. The SBCA is working to develop a new approach to addressing this issue. We are exploring the viability of establishing a more rational and efficient testing system that would be based on agreed upon uniform testing and training procedures.

Respectfully submitted,

**Satellite Broadcasting and Communications Association**

By: 

Andrew S. Wright, Vice President, Legal Affairs